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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 JEAN KASEM,

9 Plaintiff,

v.

10 KERRI HELEN KASEM, et al.,

11 Defendants.

CASE NO. C17-5461 BHS

ORDER DENYING
DEFENDANT'S MOTION TO
DISMISS AS MOOT AND
GRANTING PLAINTIFF'S
MOTION TO VOLUNTARILY
DISMISS PARTIES

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13 This matter comes before the Court on Defendant Kerri Helen Kasem's motion to
14 dismiss (Dkt. 12) and Plaintiff Jean Kasem's ("Plaintiff") motion to voluntarily dismiss
15 (Dkt. 24). The Court has considered the pleadings filed in support of and in opposition to
16 the motion and the remainder of the file and hereby rules as follows:

17 **I. PROCEDURAL HISTORY**

18 On June 15, 2017, Plaintiff filed a complaint against Defendants Julie Kasem
19 Aboulhosn, Jamil Anis Aboulhosn, Catholic Health Initiatives, Kerri Helen Kasem,
20 Mike Kasem, and Troy L. Martin asserting causes of action for wrongful death,
21 negligence, and fraud. Dkt. 1. Plaintiff asserts that the Court has diversity jurisdiction
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1 because the parties are residents of different states and the amount in controversy exceeds
2 \$75,000. *Id.* ¶ 1.2.

3 On October 3, 2017, Defendant Kerri Helen Kasem filed the instant motion to
4 dismiss arguing that there is not complete diversity between the parties. Dkt. 12. On
5 October 4, 2017, Defendant Catholic Health Initiatives (“CHI”) joined in the motion.
6 Dkt. 16. On October 30, 2017, Plaintiff moved to voluntarily dismiss all non-diverse
7 parties and responded to the motion to dismiss. Dkts. 24, 25. On November 2, 2017,
8 CHI withdrew its joinder in the motion to dismiss, and Defendants Julie Kasem
9 Aboulhosn, Jamil Anis Aboulhosn, Kerri Helen Kasem, and Troy L. Martin requested
10 that the Court dismiss Plaintiff’s claims without prejudice. Dkts. 26, 27.

11 II. DISCUSSION

12 Based on the motion to voluntarily dismiss the non-diverse Defendants, the motion
13 to dismiss is moot. Thus, the Court **DENIES** the motion as **moot**.

14 Regarding the motion to voluntarily dismiss the non-diverse Defendants, the only
15 issue is whether the claims should be dismissed with or without prejudice. Defendants
16 argue that the Court should dismiss the claims with prejudice because the Plaintiff has
17 admitted that diversity of citizenship does not exist between the parties. However, lack
18 of diversity only precludes Plaintiff from bringing these state law claims in federal court
19 at this time. It seems that Plaintiff may still bring the claims in state court or, if the
20 citizenship of the parties changes, in federal court after such a change. Therefore,
21 Defendants have failed to show that the claims should be dismissed with prejudice. The
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1 Court **GRANTS** Plaintiff's motion, the Clerk shall terminate all defendants except CHI,
2 and the Clerk shall issue new initial case deadlines for the remaining parties.

3 **IT IS SO ORDERED.**

4 Dated this 8th day of November, 2017.

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7 BENJAMIN H. SETTLE
United States District Judge

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